

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Shonn R. McCain,	)	C/A No. 0:12-2168-JFA-PJG
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Warden Drew; Food Adm. W. Kinnion;	)	
CO Stremczuc, Food Service Supervisor for	)	
the Quarter,	)	
	)	
Defendants.	)	
	)	

The *pro se* plaintiff, Shonn McCain, brings this action alleging that the defendants' negligence resulted in plaintiff suffering a serious burn injury while working in the prison bakery. He seeks monetary damages.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation and opines that the complaint should be summarily dismissed under 28 U.S.C. § 1915(e)(2)(B). The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation. The plaintiff was notified of his right to file objections to the Report and Recommendation and filed timely objections thereto.

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge suggests that plaintiff's exclusive remedy for this work-related injury claim is to file a claim under the Inmate Accident Compensation Act (IACA), 18 U.S.C. § 4126 (1988), 28 C.F.R. §§ 301.101-301.319, which provides an accident compensation procedure to inmates for injuries suffered while working at a prison. The Magistrate Judge provides a thorough explanation of the IACA program in her Report.

Further, the Magistrate Judge opines that the plaintiff's complaint fails to state a claim upon which relief may be granted by this court under the Federal Tort Claims Act (FTCA) or under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). The Magistrate Judge also properly suggests that plaintiff's claim in this case falls under the IACA, not the FTCA or *Bivens*.

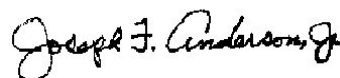
The court has conducted the required *de novo* review of plaintiff's objections and finds them unpersuasive. As such, they are overruled.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the objections thereto, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference.

Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

March 26, 2013  
Columbia, South Carolina



Joseph F. Anderson, Jr.  
United States District Judge